

ASSEMBLY BILL

No. 1978

Introduced by Assembly Member Gonzalez

February 16, 2016

An act to amend Section 2802 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1978, as introduced, Gonzalez. Employee indemnification.

Existing law requires an employer to indemnify his or her employees for all that the employee necessarily expends or loses in direct consequence of the discharge of the employee's duties or as a result of obeying the employer's directions. Existing law provides an aggrieved employee with a private right of action to recover these expenditures and authorizes the Labor Commissioner to enforce these provisions by issuing citations and penalties to employers for violations of this requirement, as specified. Existing law provides for interest on awards by the court or the Division of Labor Standards Enforcement for reimbursement.

This bill would make nonsubstantive changes to those interest provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2802 of the Labor Code is amended to
2 read:

1 2802. (a) An employer shall indemnify his or her employee
2 for all necessary expenditures or losses incurred by the employee
3 in direct consequence of the discharge of his or her duties, or of
4 his or her obedience to the directions of the employer, even though
5 unlawful, unless the employee, at the time of obeying the
6 directions, believed them to be unlawful.

7 (b) All awards made by a court or by the Division of Labor
8 Standards Enforcement for reimbursement of necessary
9 expenditures under this section shall carry interest at the same rate
10 as judgments in civil actions. Interest shall accrue from the date
11 on which the employee incurred the necessary ~~expenditure~~
12 ~~expenditures~~ or ~~loss~~ *losses*.

13 (c) For purposes of this section, the term “necessary expenditures
14 or losses” shall include all reasonable costs, including, but not
15 limited to, attorney’s fees incurred by the employee enforcing the
16 rights granted by this section.

17 (d) In addition to recovery of penalties under this section in a
18 court action or proceedings pursuant to Section 98, the
19 commissioner may issue a citation against an employer or other
20 person acting on behalf of the employer who violates
21 reimbursement obligations for an amount determined to be due to
22 an employee under this section. The procedures for issuing,
23 contesting, and enforcing judgments for citations or civil penalties
24 issued by the commissioner shall be the same as those set forth in
25 Section 1197.1. Amounts recovered pursuant to this section shall
26 be paid to the affected employee.